

§ 163A-1617. Determination of election results in cities using the election and runoff election method.

(a) Except as otherwise provided in this section, nonpartisan municipal elections in cities using the election and runoff election method shall be determined by a majority of the votes cast. A majority within the meaning of this section shall be determined as follows:

- (1) When more than one person is seeking election to a single office, the majority shall be ascertained by dividing the total vote cast for all candidates by two. Any excess of the sum so ascertained shall be a majority, and the candidate who obtains a majority shall be declared elected.
- (2) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, the majority shall be ascertained by dividing the total vote cast for all candidates by the number of offices to be filled, and by dividing the result by two. Any excess of the sum so ascertained shall be a majority, and the candidates who obtain a majority shall be declared elected. If more candidates obtain a majority than there are offices to be filled, those having the highest vote (equal to the number of offices to be filled) shall be declared elected.

(b) If no candidate for a single office receives a majority of the votes cast, or if an insufficient number of candidates receives a majority of the votes cast for a group of offices, a runoff election shall be held as herein provided:

- (1) If no candidate for a single office receives a majority of the votes cast, the candidate receiving the highest number of votes shall be declared elected unless the candidate receiving the second highest number of votes requests a runoff election in accordance with subsection (c) of this section. In the runoff election only the names of the two candidates who received the highest and next highest number of votes shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.
- (2) If candidates for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a majority of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared elected unless some one or all of the candidates equal in number to the positions remaining to be filled and having the second highest number of votes shall request a runoff election in accordance with subsection (c) of this section. In the runoff election to elect candidates for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and demanding a runoff election shall be printed on the ballot. No space for write-in votes shall be included on the ballot for the runoff election.

(c) The canvass of the first election shall be held on the seventh day after the election. A candidate entitled to a runoff election may do so by filing a written request for a runoff election with the board of elections no later than 12:00 noon on the Thursday after the result of the first election has been officially declared. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

(d) Tie votes; how determined:

- (1) If there is a tie for the highest number of votes in a first election, the board of elections shall conduct a recount and declare the results. If the recount shows a tie vote, a runoff election between the two shall be held unless one of the

candidates, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections. Should that be done, the remaining candidate shall be declared elected.

- (2) If one candidate receives the highest number of votes cast in a first election, but short of a majority, and there is a tie between two or more of the other candidates receiving the second highest number of votes, the board of elections shall declare the candidate having the highest number of votes to be elected, unless all but one of the tied candidates give written notice of withdrawal to the board of elections within three days after the result of the first election has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a runoff election in accordance with subsection (c) of this section, a runoff election shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.

(e) Runoff elections shall be held on the date fixed in G.S. 163A-1585(a)(4). Persons whose registrations become valid between the date of the first election and the runoff election shall be entitled to vote in the runoff election, but in all other respects the runoff election shall be held under the laws, rules, and regulations provided for the first election.

(f) A second runoff election shall not be held. The candidates receiving the highest number of votes in a runoff election shall be elected. If in a runoff election there is a tie for the highest number of votes between two candidates, the board of elections shall determine the winner by lot. (1971, c. 835, s. 1; 1973, c. 793, s. 90; 1995 (Reg. Sess., 1996), c. 553, s. 3; 2003-278, s. 10(g); 2010-170, s. 15.5(a); 2017-6, s. 3.)